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Letter dated 12 December 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 6 August 2002 (S/2002/901).

The Counter-Terrorism Committee has received the attached supplementary report from Latvia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 11 December 2002 from the Permanent Mission of Latvia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Latvia presents its compliments to the Counter-Terrorism Committee of the United Nations and has the honour to transmit the information prepared by the authorities of the Republic of Latvia in reference to paragraphs 3 to 6 of the guidance note of the Counter-Terrorism Committee of 26 October 2001 and Security Council resolution 1373 (2001) of 28 September 2001 (see enclosure).

Enclosure

ANSWERS TO THE QUESTIONS OF THE COUNTER–TERRORISM COMMITTEE PROVIDED BY THE REPUBLIC OF LATVIA

In reference to Paragraphs 3 to 6 of the guidance note of the CTC of 26 October 2001 and the United Nations Security Council Resolution 1373 of 28 September 2001, the Republic of Latvia has the honour to provide the Counter Terrorism Committee with the following information in response to its questions:

SUB – PARAGRAPH 1 (A):

"1. Decides that all States shall:
(a) Prevent and suppress the financing of terrorist acts;"

1. Due to the advantageous geographical location and vigorous reform policy, Latvia over the last decade has seen rapid development in the banking and finance sector, including also the international banking cooperation. Accordingly, the competent state authorities have paid particular attention to ensuring that Latvia's credit and financial institutions are not used for illegal financial activities, including development of legal framework and control mechanisms. The events of September 11th 2001 added further impetus to this work with a focus on prevention of financing of international terrorism.

2. The Republic of Latvia is pleased to inform the CTC that the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 has been ratified at the Parliament on 26 September 2002 and the instrument of ratification has been forwarded to the Secretary - General of the United Nations on 22 October of this year. The Convention shall enter into force on 14 December 2002 for the Republic of Latvia. Thus, the national process of ratification has been successfully completed and Latvia is ready now to undertake the obligations set forth in the aforementioned Convention legally and fully.

3. In addition, Latvia would like to stress that the institution responsible for the coordination of the obligations set forth in the Convention is the Council of Crime and Corruption Prevention (Noziedzības un korupcijas novēršanas padome). The Council consists of Prime Minister of Latvia, Minister of Justice, Minister of Interior, Minister of Foreign Affairs, Minister of Science and Education, Minister of Finances, Minister of Welfare, the Prosecutor - General, the President of the Bank of Latvia, the Director of the Constitutional Defense Bureau and the State Controller.

4. This mechanism of oversight at the Ministerial level shows the importance attached by Latvia to the prevention of terrorism financing and determination to ensure that Latvia's banking system is not used by international terrorists.

CTC question: Besides authorizing the credit and financial institutions to refrain from executing unusual or suspicious financial transactions does the "Law On Prevention of the Laundering of the Proceeds of Crime" also put them under an obligation to do so?

5. In accordance with national legislation, two coherent types of financial transactions – suspicious financial transactions and unusual financial transactions – as regards the prevention of the laundering of proceeds of crime have been legally disparted. Consequently, different but closely related legal regimes have been established to deal with these financial transactions, in order to combat money laundering and the legalisation of proceeds of crime.

A. Refraining from Suspicious Financial Transactions

6. The Law has placed credit and financial institutions under the obligation to refrain from executing suspicious financial transactions.

7. Thus, under Article 17 of the Law "On Prevention of the Laundering of the Proceeds from Crime", credit institutions and financial institutions have the obligation to refrain from conducting a transaction if there is cause to suspect that this particular transaction is associated with the laundering or attempted laundering of proceeds of crime.

8. If a credit institution or a financial institution is not able to refrain from conducting a suspicious transaction, or if refraining from the conducting of such a transaction may serve as information which would assist persons involved in the laundering of proceeds of crime to evade liability, the credit institution or financial institution has the right to conduct the transaction and report it to the Control Service after the transaction has been conducted.

9. The Law furthermore states that if a credit institution or a financial institution has refrained from a transaction in accordance with the requirements of the Law, in relation to such refraining from or delaying of the transaction, the credit institution, financial institution or an official or employee of such institution shall not be subject to legal or financial liability, irrespective of the results of the utilisation of the information provided.

10. Article 5 of the Law determines the activities that are to be considered laundering of proceeds of crime. Thus, the laundering of proceeds of crime are considered the following activities, if such are committed with the intent to conceal or disguise the criminal origin of financial resources or other property:

1. The conversion of financial resources or property into other valuables, changing their disposition or ownership;
2. The concealment or disguising of the true nature, origin, location, placement, movement or ownership of financial resources or other property;
3. The acquisition of ownership to, possession of or use of financial resources or other property, if at the time of creation of these rights it is known, that these resources or property have been derived from crime; and
4. Participation in the performance of the activities mentioned above.

11. Up to 20 June 2002 Article 4 provided for 15 predicative criminal offences. Accordingly, financial resources and other property, which have been derived as a result of these criminal offences as stated in the Law, are regarded as the proceeds of crime.

12. These criminal offences are as follows:

1. Illicit traffic in poisonous, strongly effective substances, narcotic or psychotropic substances;
2. Gangsterism;
3. Smuggling;
4. The illegal movement of persons across the border of Latvia;
5. The manufacture and distribution of forged money and Latvia's securities, unlawful dealing in money documents, and the issue of unauthorized securities;
6. The seizing of hostages, kidnapping of persons, or substitution of children;
7. The infringement of copyright or neighbouring rights;
8. The committing of a criminal offence against property, which has been committed on a large scale or which has been committed by an organized group;
9. Entrepreneurial activity without registration and without a permit (a licence), the receiving and utilisation of credits and other loans in bad faith, and driving an undertaking (company) into insolvency and bankruptcy;
10. The giving of bribes, taking of bribes, intermediation in bribery, appropriation of bribes, and unauthorised receipt of financial benefits;
11. The violation of regulations on the import, preparation or distribution of material of a pornographic nature, compelling the engaging in prostitution and living on the avails of prostitution;
12. The violation of the safety regulations for the circulation of radioactive and chemical materials;
13. The unauthorized manufacture, acquisition, keeping and sale of weapons, ammunition and explosives, the unauthorized manufacture, acquisition, carrying and sale of special devices;
14. The illegal removal of or trading in the tissues or organs of a live or dead human being, or
15. The avoidance of the payment of taxes and payments comparable to taxes.

13. On 20 June 2002 the Parliament of Latvia, adopted the Amendments to the Law "On Prevention of the Laundering of the Proceeds from Crime", stating that terrorism is a predicative criminal offence.

14. Article 4 (2) of the Law also provides for that "Proceeds derived from criminal activity shall also be financial resources and other property controlled (directly or indirectly) or owned by:

1) a person who, based on suspicion of being involved in terrorist acts or complicity therein, has been included in the list of such persons compiled by countries and international organizations named by the by the Cabinet of Ministers of the Republic of Latvia;

2) a person on which information is available to the authorities listed under the Article 33 hereof, providing sufficient basis to suspect him of having committed the offense mentioned under the Paragraph 1-16 of the present Article or complicity therein" (see Paragraph 12);

15. The Control Service shall inform credit and financial institutions about these persons.

16. Thus, financial resources and other property and resources, which are in association or have been derived in association with or as the result of terrorism, shall be acknowledged as proceeds of crime and are under the control of the aforementioned Law. Accordingly, financial institutions and credit institutions shall refrain from conducting a transaction if there is cause to suspect that this transaction is associated with terrorism.

17. The amendments also provides for clear stated rights of the Control Service to pass a decision to credit and financial institutions to freeze a debit operation of the account or any other transaction of other assets of the client if there are suspicions of his or her association with terrorism in the time period designated in the decision of the Control Service, but only for a period of no longer than 6 months.

B. Reporting on unusual and suspicious financial transactions

18. As regards the reporting of unusual and suspicious financial transactions, the Law foresees several obligations of the credit and financial institutions of Latvia.

19. Article 11 of the Law provides for that credit institutions and financial institutions have an obligation to:

19.1. notify the Control Service without delay regarding each financial transaction, the elements of which conform to at least one of the elements included in the list of elements of unusual transactions; and

19.2. pursuant to a written request of the Control Service, provide without delay additional information regarding the financial transaction (transactions) of a client concerning which a report has been received, but in the cases provided for in the Law, with the consent of the Prosecutor-General or a specially authorised prosecutor – also regarding other transactions of the client.

20. Officials and employees of credit institutions and financial institutions also have a duty to notify the Control Service regarding facts discovered which do not conform to the elements included in the list of elements of unusual transactions, but which due to other circumstances cause suspicion regarding the laundering or attempted laundering of proceeds derived from crime.

21. In the report which is submitted to the Control Service by a credit institution or a financial institution the following, if possible, is included: client identification data; a copy of the client identification document; a description of the transaction conducted or proposed, as well as the addressee of the transaction and the amount of the transaction, the time and place of the transaction conducted or proposed and the elements which give a basis for considering that the transaction is suspicious or conform to the elements included in the list of elements of unusual transactions.

22. If a credit institution, a financial institution or official or employee of such an institution has reported to the Control Service in compliance with the requirements of the Law, irrespective of whether the fact of the laundering of proceeds of crime is proved or not proved during the investigation or at trial, and irrespective of the provisions of the contract between the credit institution or financial institution and the client, reporting to the Control Service shall not be deemed to be the disclosure of information not to be disclosed and therefore the credit institution, financial institution and the official or employee of such institution shall not be subject to legal or financial liability .

C. Sanctions regime under the Afghan Sanctions Committee and Respective UNSC Resolutions

23. Under the Regulations of the Cabinet of Ministers, financial and credit institutions have a legal obligation to freeze any account of any individual and entity, which is listed on the UN SC Sanction Committee list under sanction regime of Afghanistan. Respective information since last year is permanently forwarded to the financial and credit institutions of the Republic of Latvia by the Ministry of Foreign Affairs and the Control Service.

24. Latvia fully complies with the UNSCR with respect to the Afghan sanctions regime and has implemented the necessary restrictions contained in the respective UNSCR.

25. To date, no accounts or financial transactions that could be associated with terrorism or supportive of terrorist activities have been discovered in the Republic of Latvia.

CTC question: Are Latvian financial institutions legally obliged to comply with a request from Latvia's Commission of the Market of Finances and Capital or the Control Service to refrain from financial activities or financial transactions with any individual, legal entity or organisation considered to be associated with terrorism?

26. Yes.

27. Latvian financial institutions are legally obliged to comply with the decisions and indications of the Control Service, which is the institution responsible for the prevention of the laundering of the proceeds of crime.

28. The functions of the Commission of the Market of Finances and Capital are directed towards making the policy of the financial market, and credit and financial institutions are obliged to comply with decisions and requirements within the scope of the Commission's authority. For details of the functions and duties of the Commission, please find enclosed the "Law of the Commission of the Market of Finances and Capital".

CTC question: If so, please inform the CTC of the penalties which are imposed against banks which do not comply with such requests.

29. The Control Service, which is the institution in Latvia responsible for the codification of information on persons and legal entities associated with terrorism, and distribution of such information to financial and credit institutions, permanently verify and distribute information provided by the Ministry of Foreign Affairs on the lists of the UN Security Council Committee on Afghan Sanctions to financial and credit institutions.

30. Thus, if the financial institution or credit institution refuses to comply with requests by the Control Service with regard to freezing of the financial funds of persons and legal entities included on the terrorist lists of the UN SC Afghan Sanctions Committee, the respective institution (in the name of it – the responsible natural person) shall be subjected to criminal liability.

31. Article 84 "Violation of Sanctions Imposed by International Organisations" of the Criminal law foresees the following penalties:

31.1. "For a person who commits intentional violation of regulatory enactments regulating implementation of sanctions determined by the United Nations Security Council, European Union or other international organisations in the Republic of Latvia, the applicable sentence is deprivation of liberty for a term not exceeding five years or a fine not exceeding one hundred times the minimum monthly wage." (Part 1 of the respective Article). (The minimum monthly wage is 60,00 LVL in Latvia; 1 LVL is approximately equivalent to 0,6 USD).

31.2. "For a person who commits the acts mentioned above, if commission thereof is repeated, or by a group of persons pursuant to prior agreement, or by a State official, the applicable sentence in accordance with this Article is deprivation of liberty for a term not exceeding eight years, with or without confiscation of property." (Part 2 of the respective Article).

32. In respect to any credit institution, which does not comply with the normative acts of the State, a special administrative penalty is imposed. Thus, the Administrative Penal Code foresees administrative liability for the non-observance of credit institution regulations: for the non-observance of regulations or indications of the control and supervisory institutions, members of the Board, the Chairman of the Board or the Director of the credit institution shall be punishable by a fine amounting to 250 LVL.

33. Separate administrative liability is established on failure to report unusual or suspicious financial transactions to the Control Service. For such administrative offences the employee in charge of reporting shall be punishable by a fine amounting to 250 LVL.

34. The Criminal law in its Article 195 "Laundering of the Proceeds of crime" provides for the following criminal liability:

34.1. "For a person who commits laundering of criminally acquired financial resources or other property, in violation of the requirements prescribed by law and knowing that these resources or property were obtained criminally, the applicable sentence is deprivation of liberty for a term not exceeding five years, or a fine not exceeding one hundred and fifty times the minimum monthly wage, with or without confiscation of property "(Part 1 of the respective Article).

34.2. "For a person who commits the same acts, if commission thereof is on a large scale, the applicable sentence is deprivation of liberty for a term not exceeding ten years, with confiscation of property" (Part 2 of the respective Article).

CTC question: Does Latvia have any provision for regulating informal banking networks? Please outline such provisions.

35. According to the information provided by the competent state institutions, e.g. the Control Service, informal banking networks have not been stated in Latvia. The legal system of Latvia, especially the Credit Institution Law, comprehends the system of credit and financial institutions to control them in its entirety, and the competent state institutions supervise them thoroughly. For the system of control of credit institutions, please find enclosed the "Credit Institution Law".

CTC question: Are natural or legal persons other than banks (e.g. attorneys, notaries) required to report to the public authorities suspicious transactions that might be linked to terrorist activities? If so, what penalties apply to persons who omit to report either willfully or by negligence?

36. The Law "On Prevention of the Laundering of the Proceeds from Crime" determines the duties and rights of financial institutions and credit institutions regarding the prevention of the laundering of the proceeds of crime. The scope of definition "financial institutions" is broad and practically includes any natural and legal person, which performs any financial activity related with the financial transactions stated by the Law.

37. Thus, the Law states that "a financial institution" is "an enterprise (a business venture) registered with the Enterprise Register of the Republic of Latvia, a branch or a representative office established to perform one or several financial transactions referred to in this Law, except receiving of deposits and other repayable funds, or to acquire holdings in the capital of other enterprises (business ventures). For the purposes of this Law, legal or natural persons or their associations whose financial activity includes conducting, counseling and certifying financial transactions, shall also be considered financial institutions".

38. "A credit institution" is defined as "a bank or a branch of a foreign bank".

39. According to the Law the following can be considered as a "financial transaction":

1. receiving deposits and other repayable funds;
2. lending;
3. money transmission services;
4. issuing and servicing payment instruments other than cash;
5. trading money market instruments (checks, bills, certificates of deposit) foreign exchange, financial contracts and securities for own and customers' accounts;
6. trust operations;
7. safekeeping and administration of securities, including administration of collective investment funds and pension funds;
8. issuing guaranties and other written promises, whereby somebody assumes responsibility to the creditor for a debt of a third party;
9. safekeeping of valuables;
10. issuing shares and rendering related services;
11. consulting customers about financial services;
12. intermediary services in the market of money instruments;
13. providing information about the settlement of customer liabilities;
14. insurance;
15. initiating and maintaining lottery and gambling;
16. other transactions similar by nature to the above.

40. Thus, every financial and credit institution affined to or involved in financial transactions or any other transaction similar by nature to the financial transactions stated by the Law is responsible for the control of these financial transactions for the purpose of preventing the use of these financial transactions for money laundering and funding of terrorism.

41. With regard to financial institutions, in the scope of the definition given by the Law, it encompasses a very wide range of institutions and entities and the involvement is colligated by any of the kinds of financial transaction mentioned above. Thus, the Control Service has forwarded any relevant information on persons associated with terrorism not only to the banks, but also to insurance companies, members of the securities market, investment companies, savings-and-loans banks, gambling and lotteries companies, sworn notaries, notaries of the Register of Enterprises and entities alike.

42. In addition, Article 2, sub-paragraph 2 of the Law "On Prevention of the Laundering of the Proceeds from Crime" states that "This Law shall also apply to other legal or natural persons or associations of such persons whose professional activity includes the conduct of financial transactions, the provision of consultations related to such or the approval of such transactions". Thus these natural and legal persons are under the obligation to

report to the public authorities suspicious or unusual transactions, and transactions which might be associated with the laundering or attempted laundering of the proceeds of crime, e.g., terrorism.

43. Under the provisions mentioned above, any person can be brought to justice if laundering or attempted laundering of the proceeds of crime has been undertaken. In addition, the terms of participation of several persons in the criminal offence also state the liability incurred for participation and joint participation.

44. The Criminal Law also states criminal liability for not reporting a criminal offence to the respective competent authorities. Thus, Article 315, "Failing to Inform of Crimes" foresees the following: "For a person who commits failing to inform, where it is known with certainty that preparation for or commission of a serious or especially serious crime is taking place, the applicable sentence is deprivation of liberty for a term not exceeding four years, or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage".

45. For the scope of administrative liability see Paragraph 33.

SUB – PARAGRAPH 1 (B):

"Decides that all States shall:

(b) criminalize the willful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;"

CTC question: Latvia intends to ratify the International Convention for the Suppression of the Financing of Terrorism in the near future. The CTC would therefore be grateful to receive a progress report on any proposed legislative amendments to secure implementation of this convention in Latvia, particularly Articles 2 and 4.

A. The Ratification of the Convention

46. On 26 September 2002 the Saeima (Parliament) of the Republic of Latvia adopted the Law on the ratification of the International Convention for the Suppression of the Financing of Terrorism and the instrument of ratification was subsequently forwarded to the United Nations on 22 October 2002. Thus, the Republic of Latvia has the pleasure of informing the CTC that the national process of ratification has been successfully completed, and Latvia is now ready to undertake at an international level the obligations set forth in the aforementioned Convention.

47. In accordance with Article 2, Paragraph 2 of the Convention, Latvia has declared that in the application of this Convention to Latvia the following treaties shall be deemed not to be included in the annex referred to in Article 2, Paragraph 1, Subparagraph (a) of the Convention as of the date of the depositing of the instrument of ratification:

1. The International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;
2. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980;
3. Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988;
4. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988;
5. The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

48. The list of these conventions is subject to changes, depending on the process of ratification of the abovementioned conventions by Latvia. Accordingly, in compliance with the Article 2, Paragraph 2 of the Convention the United Nations will be informed on the entering into force of these five conventions for Latvia to fulfill the obligations stated in the Convention.

49. In addition, the Republic of Latvia is pleased to provide the current information on the ratification process of these conventions in the scope of implementation of the requirements of the UNSCR 1373. Thus:

1. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980 was accepted by the Parliament on 19 September 2002; the Law on acception entered into force on 1 October 2002;
2. The International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979 was accepted by the Parliament on 26 September 2002;
3. The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997 was accepted by the Parliament on 24 October 2002;
4. Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, signed at Rome on 10 March 1988 accepted by the Parliament on 31 October 2002;
5. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, signed at Rome on 10 March 1988 accepted by the Parliament on 31 October 2002.

50. Thus, Latvia has successfully completed the national ratification procedure for the anti-terrorism conventions, in compliance with Resolution 1373 of the United Nations Security Council.

51. Furthermore, by ratifying the Convention, Latvia has declared that in accordance with Article 7, Paragraph 3 of the Convention it has established jurisdiction in all the cases listed in Article 7, Paragraph 2 of the International Convention for the Suppression of the Financing of Terrorism.

52. To fulfill the obligations of the Resolution and by ratifying the Convention for the Suppression of the Financing of Terrorism, state institutions, under the guidance of the Ministry of Justice and the Ministry of Finance elaborated amendments in several legal areas as regard to: the legal capacity of credit institutions and state security institutions; revision of the concept of terrorism; prevention of money laundering (see Sub-Paragraph 1 (a) of the Report); criminalization of terrorism financing and amendments to the criminal procedure (on international cooperation in the matters of the criminal procedure). Constitutive amendments are examined hereinafter.

B. Criminalization of terrorism financing

53. The amendments stating the financing of terrorism, terrorist groups or terrorist acts as a separate criminal offence have been prepared under the guidance of the Ministry of Justice and adopted at the governmental level. Thus, the expert group proposed to supplement Article 88 of the Criminal law with Article 88 [1] in the following wording:

"For willful provision or collection of any kinds of expedients in purpose to use them or being acknowledged by a person that they could be used fully or partly for the perpetration of the criminal offences stated in Articles 86., 87., 88., 89., 154. or 268., the applicable sentence is a deprivation of liberty for a term not exceeding five years or a fine not exceeding one hundred times the minimum monthly wage, with or without the confiscation of property. For similar offences, if they are done on a large scale, - the applicable sentence is the deprivation of liberty for a term of not less than five and not exceeding ten years".

54. According to Latvian jurisdiction – Article 20 of the Law "On the Time and Procedure for the Coming into Force of the Criminal Law" - the "liability for an offence, provided for in the Criminal Law, which has been committed on a large scale shall come into effect if the total value of the property which was the subject of the offence was not less than fifty times the minimum monthly wage as prescribed in the Republic of Latvia at that time", thus not less than 3.000 LVL at the time.

55. Accordingly, according to these draft amendments any collection or provision of funds and financial help as regard to the criminal offences mentioned below shall be punished. Thus, criminal offences related to the criminalization of provision or collection of financial funds are the following:

56. Section 86. "Endangerment of the Life and Health of the President of the Republic of Latvia, Members of the Saeima, Members of the Cabinet and other State Officials" states the following:

"For a person who commits an attack on the President of the Republic of Latvia, members of the *Saeima*, members of the Cabinet, or another State official elected, nominated or appointed by the *Saeima* of the Republic of Latvia, in relation to their governmental activities in the interests of the Republic of Latvia, if endangerment of the life or health of such person is associated with the attack the applicable sentence is deprivation of liberty for a term not exceeding fifteen years".

57. Section 87. "Endangerment of the Life and Health of Representatives of Foreign States" states the following:

"(1) For a person who commits assault on the leader of a foreign state or of its government, or on another representative of a foreign State, who has officially arrived in the Republic of Latvia on official business, if the assault is associated with the endangerment of the life or health of this person the applicable sentence is deprivation of liberty for a term not exceeding fifteen years.

(2) For a person who commits the same acts, if such have caused serious consequences for the Republic of Latvia the applicable sentence is deprivation of liberty for a term of not less than five and not exceeding twenty years."

58. Section 88. "Terrorism" stating the following:

"(1) For a person who commits a causing an explosion or fire, or other intentional acts directed towards destruction of human beings or infliction of bodily injury to or other harm to the health of human beings, or

commits destruction or damaging of undertakings, structures, oil or gas lines, power lines, transport routes and means of transport, telecommunications networks, ionising radiation facilities or other property of national significance for purposes of harming the Republic of Latvia or its inhabitants, or causes, for the same purposes, a nuclear accident, radiation accident, mass poisoning, or spreading of epidemics and epizootic diseases the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than eight and not exceeding twenty years, with confiscation of property.

(2) For a person who, employing explosion or fire, or causing of a nuclear or radiation emergency, or other generally dangerous means, intentionally commits violent acts, dangerous to life or health, against persons, or destruction or damaging of the property of another person, or commits the threatening of such acts, presented as a term of cessation of the violent acts, where there is reason to believe that these threats may be carried out, with the purpose of inducing the State, its institutions or international organisations to take any action or refrain therefrom the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than fifteen and not exceeding twenty years, with confiscation of property."

59. Section 89. "Subversion" states the following:

"For a person who commits any act or failure to act as is directed towards destruction of the financial system, industrial, transport, agricultural, trade or other economic sectors, or destruction of the operations of any institutions or organisations, with the purpose of harming the Republic of Latvia the applicable sentence is deprivation of liberty for a term of not less than five and not exceeding twelve years, with confiscation of property.

60. Section 154. "Seizure of Hostages" states the following:

"(1) For a person who commits seizure or detaining of a person as a hostage, if such is associated with threats of murder, infliction of bodily injury or further detainment of such person for the purposes of compelling a state, international organisation, natural or legal person or a group of persons to do some act or refrain from doing such, proposing this as a condition for the release of the hostage the applicable sentence is deprivation of liberty for a term of not less than three years and not exceeding twelve years, with or without confiscation of property.

(2) For a person who commits the same acts, if commission thereof is against a juvenile, or is repeated, or by a group of persons pursuant to prior agreement, or serious consequences are caused thereby the applicable sentence is deprivation of liberty for a term of not less than five years and not exceeding fifteen years, with confiscation of property."

61. Section 268. "Seizure of an Air or Water Transport Vehicle" states the following::

"(1) For a person who commits seizing an air or water transport vehicle, except vehicles of small dimensions, on the ground, in water or during a flight the applicable sentence is deprivation of liberty for a term of not less than five and not exceeding fifteen years.

(2) For a person who commits the same acts, if commission thereof is by a group of persons pursuant to prior agreement or involves violence or threats of violence, or an accident or other serious consequences are caused thereby the applicable sentence is deprivation of liberty for a term of not less than ten and not exceeding seventeen years.

(3) For a person who commits acts provided for in Paragraphs one and two of this Section, if the death of a human being is caused thereby the applicable sentence is deprivation of liberty for a term of not less than twelve and not exceeding twenty years."

62. These amendments were already passed on to the Parliament in spring of the year 2002, but due to the controversial academic discussion of the necessity of overloading the Criminal law with a separate new criminal offence, and the current practical applicability of the criminal jurisdiction which overlays cases stated in the draft amendments and in the Convention of the Suppression of the Financing of Terrorism, the draft law has not been accepted up to now by the Parliament.

63. Thus, the current system set out in the Criminal Law shall be applicable to cases of the financing of terrorism. Accordingly, insofar as the criminalization of willful provision or collection of funds with the intention that these financial resources should be used in order to carry out terrorist acts, the Criminal Law provides for that such actions shall be criminalized as participation in the execution of acts stated in Section 88 of the Law and participators shall be brought to justice.

64. Thus, the Criminal Law states the following forms of perpetration and participation in the commission of the criminal offence:

64.1. Article 17. "Perpetrator of a Criminal Offence" states that "a person, who himself or herself has directly committed a criminal offence or, in the commission of such, has employed another person who, in accordance with the provisions of this Law, may not be held criminally liable, shall be considered the perpetrator of a criminal offence".

64.2. Article 18. "The Participation of Several Persons in a Criminal Offence" states that "the participation by two or more persons knowingly in joint commission of an intentional criminal offence is participation or joint participation".

64.3. Followingly, the Law states that "criminal acts committed knowingly by which two or more persons (that is, a group) jointly, knowing such, have directly committed an intentional criminal offence shall be considered to be participation (joint commission). Each of such persons is a participant (joint perpetrator) in the criminal offence"(Article 19).

64.4. Article 20. "Joint Participation" states the following:

"(1) An act or failure to act committed knowingly, by which a person (joint participant) has jointly with another person (perpetrator), participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it, shall be considered to be joint participation. Organisers, instigators and accessories are joint participants in a criminal offence.

(2) A person who has organised or directed the commission of a criminal offence shall be considered to be an organiser.

(3) A person who has induced another person to commit a criminal offence shall be considered to be an instigator.

(4) A person who knowingly has promoted the commission of a criminal offence, providing advice, direction, or means, or removing impediments for the commission of such, as well as a person who has previously promised to conceal the perpetrator or joint participant, the instruments or means for committing the criminal

offence, evidence of the criminal offence or the objects acquired by criminal means or has previously promised to acquire or to sell these objects shall be considered to be an accessory.

(5) A joint participant shall be held liable in accordance with the same Section of this Law as that in, which the liability of the perpetrator is set out.

(6) Individual constituent elements of a criminal offence, which refer to a perpetrator or joint participant, do not affect the liability of other participants or joint participants.

(7) If a joint participant has not had knowledge of a criminal offence committed by a perpetrator or other joint participants, he or she shall not be held criminally liable for such.

(8) If the perpetrator has not completed the offence for reasons independent of his or her will, the joint participants are liable for joint participation in the relevant attempted offence. If the perpetrator has not commenced commission of the offence, the joint participants are liable for preparation for the relevant offence.

(9) Voluntary withdrawal, by an organiser or instigator from the completing of commission of a criminal offence shall be considered as such only in cases when he or she, in due time, has done everything possible to prevent the commission with his or her joint participation of the contemplated criminal offence and this offence has not been committed. An accessory shall not be held criminally liable if he or she has voluntarily refused to provide promised assistance before the commencement of the criminal offence".

64.5. Article 21. "Organised Groups" defines the organised group as that which is "a stable association formed by more than two persons which has been created for purposes of jointly committing criminal offences or serious or especially serious crimes and whose participants in accordance with previous agreement have divided responsibilities. Liability of a person for the commission of an offence within an organised group shall apply in the cases set forth in this Law for formation and leadership of a group, and for participation in preparation for a serious or especially serious crime or in commission of a criminal offence, irrespective of the role of the person in the jointly committed offence".

64.6. Previously unpromised concealment or failure to inform is also admitted as a form of participation. Thus, Article 22 of the Criminal Code foresees that "previously unpromised concealment of a perpetrator or joint participants in a crime, or of tools or means for commission of a crime, evidence of a crime or objects acquired by criminal means, or failure to inform about a crime are not joint participation, and criminal liability regarding such shall apply only in the cases provided for in this Law".

B. The Concept of Terrorism

65. By reviewing the concept of terrorism included in the Criminal Law in light of the United Nations and European Union's efforts to formulate an extensive and comprehensive definition of terrorism, a group of experts prepared amendments to Article 88 of the Criminal Law.

66. The proposed amendments included a special provision that actions mentioned in Article 88 of the Criminal Law shall also be seen as a criminal offence in cases where they are directed at other states and international organizations. Still, the acceptance of amendments by the Saeima (Parliament) has been postponed due to an academic dispute on the necessity of such a broad definition of "terrorism" as a criminal offence.

C. Amendments in the Sphere of Regulations of the Credit Institutions and State Security Institutions

67. Amendments to the Credit Institution Law have been adopted and have been in force from 10 May 2002. These amendments deal with the confidentiality of information on bank accounts and assets.

68. Thus, Article 63 of the aforementioned Law, after the entering into force of the amendments, states that:

"(1) Information about the accounts of and transactions conducted by natural and legal persons shall be submitted to such extent as is necessary for the performance of the relevant functions, only to the following institutions:
(…)
5) The Office for the Prevention of the Laundering of the Proceeds Derived from Crime – in cases provided for and in accordance with the procedures specified in the Law on the Prevention of the Laundering of the Proceeds Derived from Crime;
6) The state security establishments on the accepted request of the Prosecutor – General or specially authorized prosecutor, if the information is necessary to verify the association of persons or their financial assets with terrorism."

CTC question: What measures are in place to prevent or punish activities of terrorist organisations operating from Latvia (fund – raising, for example) for a cause not likely to affect Latvian interests?

69. The general principle of the Criminal law – the territoriality principle - foresees that the liability of a person who has committed a criminal offence within the territory of Latvia shall be determined in accordance with this Law. Thus, if activities punishable according to the Criminal law of the Republic of Latvia are committed by terrorist organisations, even these operations will not affect Latvia's interests, the responsible persons shall be brought to justice, not taking into account the interests against which the criminal offence is directed.

SUB – PARAGRAPH 1 (C):

"1. Decides that all States shall:

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;"

CTC question: Please provide the CTC with an outline of and a progress report on the draft amendments to the Regulations of the Cabinet of Ministers of 20 March 2001 No. 127 "On the List of Indicators Pertaining to Unusual Transactions and the Reporting Procedure".

70. At the end of the year 2001 the Cabinet of Ministers reviewing the amendments to the Regulations of the Cabinet of Ministers "On the List of Indicators Pertaining to Unusual Transactions and the Reporting Procedure" decided that these amendments shall be considered and adopted only after the entry into force of the relevant amendments to the Law "On Prevention of the Laundering of the Proceeds from Crime" to secure the coherence of the legal acts and legal system of the Republic of Latvia.

71. Thus, after the entering into force of the amendments to the aforementioned Law, the Ministry of Finance prepared the draft amendments, passed them on to the Government, and on August 13 of this year the Cabinet of Ministers adopted the amendments to the Regulations of the Cabinet of Ministers of 20 March 2001 No. 127 "On the List of Indicators Pertaining to Unusual Transactions and the Reporting Procedure".

72. Now it is stated that a transaction involving a customer who is suspected of being involved in terrorist acts or complicity therein and has been included in the list of persons about which credit and financial institutions have been informed by the Control Service shall be considered as an unusual transaction. Accordingly, the provisions of the Law regarding the unusual financial transactions now refer also to such transactions that could be associated with terrorism or terrorist acts.

73. Thus, according to the Law, credit institutions and financial institutions have an obligation to notify the Control Service without delay of such a financial transaction. Moreover, officials and employees of credit institutions and financial institutions also have a duty to notify the Control Service regarding those facts discovered which do not conform to the elements included in the list of elements of unusual transactions but which, due to other circumstances, cause suspicion regarding the laundering or attempted laundering of proceeds derived from crime.

CTC question: Please describe in more detail the procedures for the freezing of funds, financial assets and economic resources, as required by this sub-paragraph, under the draft amendments to the Law "On Prevention of the Laundering of the Proceeds of Crime".

74. The Law recognises the right of the Control Service to freeze the financial assets of persons that are associated with terrorism. Thus, Article 17.[1] of the Law states the following:

"(1) Should financial resources or other property be classified as proceeds derived from criminal activity according to Paragraph 2 of Article 4 hereof (see Paragraph 14 of the Report), the Control Service shall be entitled to order credit and financial institutions to stop debit operations with the financial resources concerned in the account of a customer or the movement of other property for the period of time stated in the order which shall not exceed six months.

(2) Credit and financial institutions shall without delay fulfill the order referred to under Paragraph 1 of the present Article.

(3) The Control Service, upon its order, shall be entitled to lift the suspension of debit operations with financial resources in the account of the customer or movement of other property before the term."

75. The provisions included in this Article are specific and are related only to terrorist assets. The general principle is nevertheless incorporated in Article 17 in provisions relating to the obligations of credit and financial institutions to refrain from suspicious financial transactions.

76. Thus every credit and financial institution has an obligation to report on such financial transactions and sustain these transactions, and the Control Service, after evaluating all the necessary information, has a right to freeze the assets. The report on unusual or suspicious transactions is to be handed to the Control Service in written and electronic form.

77. The financial and credit institutions ensure that the information in the reports and facts included in the report shall not be disseminated to third persons and persons about whom the report has been written. For detailed information on the freezing of accounts or other economic resources, please find enclosed the Law "On the Prevention of the Laundering of the Proceeds from Crime".

CTC question: In particular, the CTC would be interested to know the legal basis on which Latvia would freeze funds etc., which are not of unlawful origin.

78. Apart from specific regulations on freezing funds, which are considered by the Law as of unlawful origin, the other set of rules for freezing accounts are determined within the scope of the framework of the sanctions regimes of the United Nations and the European Union.

79. Thus, according to the Regulations of the Cabinet of Ministers on the sanctions regime against Afghanistan, the Ministry of Foreign Affairs forwards all the lists of persons that are associated with terrorism to the Control Service, which further disseminates this information to financial and credit institutions and the Association of the Commercial Banks of Latvia.

80. As regards the freezing of financial assets of lawful origin, the Credit Institution Law is to be applied. The respective regulations are stated below.

A. As regard to Legal Persons

81. Thus, according to the Credit Institution Law, attachment may only be imposed on the monetary funds and other valuables of legal persons which are placed at a credit institution by a court adjudication or by the sanction of a prosecutor, but a partial or complete suspension of the account operations of such persons shall be performed at the request of the State Revenue Service.

82. Collection of the monetary funds and other valuables of legal persons may be exercised only in accordance with a writ of execution from a court or at the request of the tax administration – in cases provided for in the tax laws, but at the request of the State Revenue Service – also in cases provided for by other laws.

B. As regard to Natural Persons

83. Attachment may only be imposed on the deposits and other valuables of natural persons, wich are located at a credit institution by a court adjudication or by the sanction of a prosecutor.

84. Collection of the deposits and other valuables of natural persons may be exercised only in accordance with a court injunction.

CTC question: Which is or will be the Latvian authority responsible for making the decision to include or delete a name on the "terrorist watch list"?

85. Right now, the Control Service is the main institution which one consolidates the information on terrorists and disseminates it to the competent state institutions although the Law does not state this function directly and clearly.

86. Due to the amendments in the Law "On Prevention of the Laundering of the Proceeds from Crime", the Ministry of Foreign Affairs has elaborated draft Regulations of the Cabinet of Ministers, stating the functions of the Control Service with regard to the elaboration of the terrorist watch list in Latvia.

87. Thus, according to the draft Regulations, the Control Service receives and accepts the lists of the international organizations and states for approval and dissemination of the consolidated "terrorist watch list" in the Republic of Latvia. The draft Regulations state six international organizations – UN, EU, OSCE, Council of Europe, IINTERPOL and EUROPOL, from which terrorist watch lists are received and accepted in the Republic of Latvia. Furthermore, conditions of acceptance of terrorist lists of foreign states are included in the draft Regulations, and they include the following: the state's membership to the aforementioned organizations, the state's adherence to the International Convention on the Suppression of the Financing of Terrorism, the state's adherence to the EGMONT group. The state shall be in line with one of these conditions.

SUB – PARAGRAPH 1 (D):

"1. Decides that all States shall:

"Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;"

CTC question: How does the financial tracking system ensure that funds received by associations are not diverted from their stated purposes to terrorist activities?

88. In May of this year, with the help of a special network, the Control Service informed credit and financial institutions of the necessity of elaborating an internal normative act (self-regulatory act) which would state not only the authority (credentials) of responsible persons as regard to the verification of the terrorist lists, but also which would state the order according to which definite watch lists would be checked, and other related questions.

89. In many credit institutions, special computer programmes have been used which compare the clients of the institution against persons included in the terrorist watch lists. In case there are any compatibilities or similarities the credit institutions inform the Control Service about such cases immediately.

SUB – PARAGRAPH 2 (A):

"2. Decides also that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members or terrorist groups and eliminating the supply of weapons to terrorists;"

Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside Latvia, including, in particular:

- the carrying out, within or from Latvia, of recruiting, collecting of funds and soliciting of other forms of support from other countries;

- deceptive activities such as recruitment based on a representation to the recruit that the purposes of the recruitment are one (e.g. teaching) different from the true purpose and collection of funds through front organizations.

90. Latvian legal policy strongly prohibits persons individually or collectively from recruiting, collecting funds or solliciting any form of support for any criminal activity, including terrorist activities (see the previous report of the Republic of Latvia).

91. In accordance with their functions, the state police, municipality police and special state security establishments oversee any distrustful or suspicious social activity and verify any information on the possibility of any punishable (administratively or criminally) acts.

92. According to the information provided by the state institutions, there are no terrorist organisations or groupings of persons that could be associated with terrorist acts. Still, an elevated control of immigration exists and the Security Police, with the cooperation of the Department of Citizenship and Migration, manage the verification of persons arriving in Latvia that have the intention of settling there for any period of time. In addition, a new control institution – The Commission of Migration Control - has been established to optimize the migration process.

SUB – PARAGRAPH 2 (B):

"2. Decides also that all States shall:
(b) Take the necessary steps to prevent the commmission of terrorist acts, including by provision of early warnings to other States by exchange of information

Please elaborate on how government authorities in Latvia such as the Ministry of Defence are deepening their cooperation with foreign authorities in order to prevent the commission of terrorist acts.

93. The Ministry of Defence of Latvia is deepening its international cooperation with the aim of establishing reliable continuing relationships with other democratic states. This activity has various facets: multinational seminars, workshops and consultations.

94. In order to enhance the coordinated response of the counterterrorism system, the exchange of information between national security institutions – Security Police, Military Counterintelligence Service and Constitutional Defense Bureau has been facilitated. In addition, the National Armed Forces Special Task Unit is improving the skills necessary in order to participate in counterterrorism operations. Several plans, concepts and instructions regulate cooperation between the Ministry of Defence, the Ministry of Interior and other state institutions, for example, in the matters of sea border observation or review of the critical infrastructure protection system.

95. Close cooperation among the intelligence services of the Baltic States has been developed, with the aim of fighting against terrorism. The Joint Baltic projects are a practical contribution to the fight against terrorism; for example, the joint airspace surveillance system has direct leverage in the fight with terrorism.

96. Recently in meetings of Defence Ministers from the Baltic States, it was decided to form a working group consisting of experts from the Baltic States' Ministries of Defence and the armed forces. The task of this group is to develop response procedures for crisis situations, and in case of emergency provide means of information exchange on a 24-hour basis.

97. Regular cooperation and information exchange with the United States of America, Great Britain and other European countries has been developed. This cooperation is extended also towards training of personnel and developing a state defence system.

98. Latvia has sent also a military unit to pre-mission training in Denmark, in order to be able to contribute to the counterterrorism operation "Enduring Freedom". In doing so, Latvia was capable of participating in the operation Enduring Freedom.

99. Latvia works closely with its partners in the area of non-proliferation, and a specific Agreement between Latvia and the US concerning cooperation in the area of the prevention of proliferation of weapons of mass destruction was signed in December 2001 and entered into force in April 2002.

100. As regards the Constitutional Defense Bureau, the main kind of cooperation with foreign competent state institutions is the exchange of information with, and the examination of the information received from foreign countries. The same arrangement has been applied with respect to terrorist acts and forewarning of them.

101. As regards state security institutions, in accordance with the Action Plan against Terrorism of the Government of Latvia these establishments – the Constitutional Defense Bureau, the State Security Police and the Ministry of Defence are deepening their bilateral relations within the Baltic States as regards the regular exchange of information, including information on the illegal circulation of arms, munitions and explosives, the possible threat of terrorist acts, and other relevant questions.

102. In addition, the close cooperation has been frameworked with counterpartners in other countries. Thus, 8 meetings (with the United States of America, Germany and France) have been launched on questions relating to the exchange of information and further cooperation.

CTC question: Please provide the CTC with information on the mechanism for inter – agency co – operation among the authorities responsible for narcotics control, financial tracking and security with particular regard to the border controls designed to prevent movements of terrorists.

A. The Control Service

103. The Control Service is a specially established state authority, which exercises control over unusual and suspicious financial transactions, and acquires, receives, registers, processes, compiles, stores, analyses and provides information to pre-trial investigative institutions and the court which may be utilised for the prevention, detection, pre-trial investigation or adjudication on the laundering or attempted laundering of proceeds of crime or other criminally punishable activities associated with the same.

104. The duties of the Control Service are as follows:

104.1. to receive, compile, store and analyse reports by credit institutions and financial institutions, as well as information obtained by other means in order to determine whether such information may be related to the laundering or attempted laundering of proceeds of crime;

104.2. to provide to pre-trial investigative institutions and to the court information that may be utilised for the prevention, detection, pre-trial investigation or adjudication of the laundering or attempted laundering of proceeds of crime or other criminally punishable activities associated with such;

104.3. to analyse the quality of the information reported and the effectiveness of its utilisation, and to inform the credit institutions and financial institutions thereof;

104.4. to conduct analysis and research of the laundering or attempted laundering of proceeds of crime methods, and to improve the methodology for the hindrance and detection of such activities; and

104.5. in accordance with the procedures set out in this Law, to co-operate with international authorities, which are engaged in combating the laundering or attempted laundering of proceeds of crime.

105. All State authorities have a duty to provide information requested by the Control Service for the performance of its functions. In exchanging information with the Control Service, the person who manages the personal data processing system or performs the data processing is prohibited from disclosing to other natural or legal persons the fact of the information exchange and the information.

106. Upon its own initiative, the Control Service may provide information to pre-trial investigative institutions or to a court, if such information allows for the making of a reasonable assumption that the relevant person has committed or attempted to commit a criminal transaction or has performed the laundering of proceeds of crime.

107. At the request of persons performing investigative field work, or of pre-trial investigative institutions, as well as of the court, pursuant to the approval of the Prosecutor-General or specially authorised prosecutors, the Control Service shall provide information, if, regarding predicative criminal offences, at least one of the following actions has been commenced:

1) a criminal matter has been initiated pursuant to the procedures set out in the Criminal Procedure Code of the Republic of Latvia, or

2) investigatory operations have been initiated in accordance with the procedures set out in the Investigatory Operations Law.

108. Pursuant to a request from the State Revenue Service, which has been accepted by the Prosecutor - General or a specially authorised prosecutor, the Control Service shall provide the information at its disposal necessary for the examination of the income declarations of State officials, if there is substantiated cause for suspicion that the official has provided false information regarding his or her financial circumstances or income.

B. The State Security Establishments

109. The State Security Establishments of Latvia are: the Constitutional Defense Bureau; the Military Counterintelligence Service of the Ministry of Defense; the Security Police of the Ministry of the Interior; and the Information Service of the National Guard Headquarters.

110. State security establishment officials shall have the right within their jurisdiction to receive from state and local government institutions and officials the necessary information, documents and other materials, regardless of the confidentiality of such materials; to have free access to the files of all state and local government information sources, including computer data bases, as well as to archive materials and other documents, regardless of the confidentiality of such materials; to warn individuals and request that they terminate their unlawful activities and other actions which are aimed against state security or may cause damage to it, and to submit reports on such unlawful activities to the prosecutor.

CTC question: Which are the Latvian institutions responsible for providing early warning to other States?

111. The state institutions are responsible within the scope of their competence for providing information as regards provision of early warnings to other states. Terrorism, in the scope of the concept of state security in Latvia is defined as endangerment to the state. The National Security Law sets out the framework of the scheme for prevention of any kind of endangerment to the state and stipulates the functions of state institutions. For a detailed description of the National Defence Strategy, please find enclosed the National Security Law.

SUB – PARAGRAPH 2 (C):

"2. Decides also that all States shall:
(c) deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;"

CTC question: The answer in relation to this sub – paragraph refers specifically to proposed asylum seekers. The CTC would be interested to know which provisions of existing laws exclude from access to Latvia persons of the kind mentioned in sub – paragraph 2 (c) who is not asylum seekers?

112. Apart from specific legal provisions regarding asylum seekers, a stringent legal and practical framework has been set up concerning restrictions on entry to and residence by foreigners in the Republic of Latvia. Restrictions exist in two coherent systems: visa issuance and issue of residence permits.

A. Visa Issuance and Restrictions in This System

113. Regulation of the Cabinet of Ministers No. 131 "Procedures for Issuance of Republic of Latvia Visas", adopted on 6 April 1999, states the following prerequisites to ensure that a person non grata in the widespread meaning of the expression is not allowed to enter the Republic of Latvia.

114. Firstly, the officials of the competent state institutions have the right to request necessary explanations and information as regards:

- the purpose of the entry of the visa applicant into the Republic of Latvia,
- the person who has invited the visa applicant,
- the period and place of residence in the Republic of Latvia of the visa applicant,
- the scope of financial resources that is necessary in order to stay in the Republic of Latvia and to depart from it.

115. The regulatory enactments also foresee the possibility of inviting the visa applicant to an interview to obtain from them more detailed information.

116. Secondly, after obtaining the necessary information according to the aforementioned Regulations, a visa shall not be issued if the person:

1. has not submitted all the necessary documents for the receipt of a visa;
2. refuses to provide the requested explanations with respect to the receipt of a visa;
3. has submitted false information when applying for a visa;
4. has an unclear identity;
5. cannot indicate a permanent place of residence;
6. cannot prove that he or she has the necessary financial resources to reside in the Republic of Latvia and to depart afterwards to another state that he or she has the right to enter;
7. has been expelled, during the last five years, from the Republic of Latvia, the Republic of Estonia or the Republic of Lithuania;
8. has in the last year received a refusal to be issued a Republic of Latvia visa;
9. has submitted the documents for the receipt of a residence permit in the Republic of Latvia, but has not received a confirmation of the residence permit, or has received, within the last year, a refusal of a residence permit;
10. has been found guilty of committing a crime against peace and humanity, or a war crime, or of participation in mass repression (a person shall be included in the list for an indefinite time period);
11. has been found guilty, by court judgment, of committing a crime for which the Criminal Law of the Republic of Latvia provides a punishment - deprivation of liberty for a term not less than three years, and less than five years have passed since the serving of the sentence;
12. has violated the regulatory enactments of the Republic of Latvia which are related to the entry and residence of aliens and stateless persons in the Republic of Latvia, or customs regulations;
13. is a participant of a criminal, totalitarian, terrorist, anti-state or other organisation that utilises violent methods or such person otherwise poses a threat to the national security or public order of the Republic of Latvia, Republic of Estonia and the Republic of Lithuania (a person shall be included in the list for an indefinite time period);
14. is an undesirable person (*persona non grata*) in the Republic of Latvia;

15. cannot prove that he or she resides legally in the state where he or she is at the time of application for the visa;
16. has tried to influence the decision of an official regarding the issuance of a visa by threats or promises;
17. has indicated a purpose for the entry that is related to activities for the performance of which a special permit is necessary in the Republic of Latvia, but the person has not received such permit;
18. has not complied with the validity terms of the visa specified in Paragraph 15 of these Regulations;
19. is not entitled to enter the Republic of Latvia on the basis of information provided by a competent foreign institution; or
20. in other cases prescribed in the regulatory enactments of the Republic of Latvia.

117. If the cases referred above are determined after the issuance of the visa, the issued visa shall be annulled. Thus a whole range of provisions are set out to prevent entry into the Republic of Latvia for persons that could be even slightly associated with financing, supporting or committing terrorist acts.

B. Residence Permit Issuance and Restrictions in This System

118. To acquire a residence permit of the Republic of Latvia, strict rules exist. The residence permit is a document ensuring the foreigner's right to stay in the Republic of Latvia temporarily (temporary residence permit) or permanently (permanent residence permit). Every foreigner or stateless person may remain in the Republic of Latvia more than 90 days within a calendar half–year, if he/she has received a residence permit.

119. Residence permits are issued for different reasons – family re-union, employment agreement, business activities, medical treatment, scientific or education cooperation, religious activities, joining a monatery registered by the Religious Affairs Office, studies, practical studies or internship of students, private visits, representation of foreign companies, capital investments of minimum 1 million USD dollars and granting the citizenship of another country.

120. The residence permit shall not be issued to a person if he or she:

1. has been found, in accordance with the procedures prescribed by law, guilty of a crime which has been committed in the Republic of Latvia or elsewhere, and for which, in accordance with the laws in force in the Republic of Latvia, punishment is provided of deprivation of liberty for a term exceeding three years. This provision shall not be applicable, if the conviction has been extinguished or set aside in accordance with the procedures prescribed by the law of the Republic of Latvia, but with respect to crimes committed in other states, if at least five years have passed after the serving of the sentence of deprivation of liberty;
2. has been refused entry into Latvia during the last year;
3. has been deported from Latvia during the last five years;
4. has intentionally submitted false information in order to receive a residence permit;
5. has invalid personal identification or entry documents, or has no entry documents;
6. takes part in a totalitarian, terrorist or other organisation practising violent methods, poses a threat to state security or public order, or is a member of any secret anti-state or criminal organisation;
7. has committed a crime against humanity, or an international or war crime, or has participated in mass repression, if that has been determined by a judgment of a court;
8. is under the guardianship or trusteeship of a person who has been refused entry;
9. has illegally resided in the Republic of Latvia or has helped another alien or stateless person to illegally enter the territory of the Republic of Latvia;
10. and in other cases stated by the Latvian legislation.

121. The residence permit shall be annulled if a person:

1. has intentionally submitted false information to the Department;
2. has been found, by a judgment of a court that has come into legal effect, guilty of committing a crime;
3. raises well-founded suspicion in competent State authorities, that he or she presents a threat to public order and security, or to state security;
4. has no legal source of subsistence;
5. takes part in a totalitarian, terrorist or other organisation which practises violent methods and does not recognise the State system of the Republic of Latvia, or is a member of any secret anti-state or criminal organisation;
6. has entered military or other state service of a foreign state, except in cases where this is provided for by international agreements;
7. has repeatedly ignored residence permit registration regulations;
8. has lost the status of refugee or the alternative status or this status has been deprived;
9. has intentionally submitted false information which were the basis for the acquisition of the status of repatriant and the issuance of the residence permit;
10. and in other cases stated by the Latvian legislation.

C. Persons Already Residing in the Terrritory of the Republic of Latvia

122. As regards persons who are currently residing in the territory of the Republic of Latvia and on whom the competent state institutions have objective information of their having participated in the actions mentioned in Sub- paragraph 2 (c) of the UNSCR, these persons will be subject to the Criminal Code of the state.

CTC question: Please explain what kind of information is used to make a decision on an application for refugee status and which Latvian authorities are involved in the procedure?

123. To accept a decision on the granting of refugee status in the Republic of Latvia, the following information is used and estimated:

1) the checking of the identity of a person who applied for the refugee status;
2) checking of the relevant information given by the person and evidence and testimonies of a person;
3) in the scope of resources the information of the origin state of the person is checked;
4) the information is checked with the assistance of Interpol and embassies or the Ministry of Foreign Affairs if the diplomatic relations with the origin countries has been established.

124. In the decision-making process, several state institutions are involved:

1) the State Border Control, which examines the identity of a person;
2) The Center for Refugee Matters of the Council of Citizenship and Migration Affairs, which adopts the decision for granting refugee status in the Republic of Latvia;
3) The Latvian Appeals Board for Refugee Matters, which reviews complaints as regards decisions taken by the Center for Refugee Matters.

125. The Republic of Latvia informs that a new law "Asylum Law" has been in force since 1 September year 2002, which ensures the right of persons to receive asylum, refugee status, temporary protection and alternative status in the Republic of Latvia, in accordance with generally accepted international principles of human rights.

126. The Law states that Provisions of this Law on the granting of refugee status shall not be applied if there is reason to believe that an asylum seeker:

126.1. has committed a crime against peace, a war crime or a crime against humanity, also a crime of genocide within the meaning defined in international documents, which have been adopted to carry out measures against crimes of such type;

126.2. before arrival in the Republic of Latvia has committed an especially serious non-political crime; or

126.3. is guilty of committing acts that are contrary to the principles and purposes of the United Nations.

127. Refugee status shall be terminated if:

127.1. it is discovered that refugee status has been obtained under false pretences (for obtaining refugee status the person has knowingly provided false information which was a basis for the granting of refugee status); or

127.2. a person by judgement of a court has been found guilty of the commission in the Republic of Latvia of an especially serious crime.

128. Alternative status shall not be granted to an asylum seeker if there is cause to believe that the asylum seeker:

128.1. before arrival in the Republic of Latvia resided in a country where he or she could have requested and received protection;

128.2. has committed a crime against peace, a war crime or a crime against humanity, also a genocide crime within the meaning defined in international documents, which have been adopted to carry out measures against crimes of such kind;

128.3. is guilty of committing acts which are contrary to the principles and purposes of the United Nations; or

128.4. poses a threat to the security of the State and the people of Latvia.

129. For detailed information on legal regulations pertaining to refugees and shelter seekers, please find enclosed the Law "Asylum Law".

SUB – PARAGRAPH 2 (D) AND (E):

"2. Decides also that all States shall:
(d) prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;
(e) ensure that any person who participates in the financing, planning, preperation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;"

CTC question: What is the competence of the courts of Latvia to deal with criminal acts of the following kinds:

- an act committed outside Latvia by a person who is a citizen of, or habitually resident in, Latvia (whether that person is currently present in Latvia or not);
- an act committed outside Latvia by a foreign national who is currently in Latvia?

130. As regards the abovementioned questions, Latvia informs that the courts of Latvia are fully subjugated under the fundamental principles of the Criminal Law of the Republic of Latvia and the Constitution.

131. Thus, in accordance with criminal legislation, the principle of territoriality is one of the fundamentals with respect to the rights of the national courts of Latvia to bring accused persons to justice. This principle is included in Article 2, Part 1 and Article 3 of the Criminal Law.

132. Article 2 "Application of The Criminal Law in the Territory of Latvia" states that if a person has committed a criminal offence in the territory of Latvia, the liability of such a person shall be determined in accordance with the Criminal Law of Latvia.

133. The exception to this principle –exterritoriality - has been made regarding several categories of persons determined by the Law. Thus, "if a foreign diplomatic representative, or other person, who, in accordance with the laws in force or international agreements binding upon the Republic of Latvia, is not subject to the jurisdiction of the Republic of Latvia, has committed a criminal offence in the territory of Latvia, the issue of this person being held criminally liable shall be decided by diplomatic procedures or in accordance with bilateral agreements of the states" (Article 2, Part 2 of the Criminal Law).

134. The principle of the territoriality and territorial jurisdiction also applies to criminal offences committed on aircraft and sea and river vessels which are registered in Latvia, even if they are located outside the territory of Latvia. Thus, the Law foresees that "a person who has committed a criminal offence outside the territory of Latvia, on an aircraft, or a sea or river vessel or other floating means of conveyance, if this means of conveyance is registered in the Republic of Latvia and if it is not provided otherwise in international agreements binding upon the Republic of Latvia, shall be held liable in accordance with this Law" (Article 3 of the Criminal law).

135. The criminal legislation of Latvia also deals with criminal offences committed outside the Republic of Latvia, although in the scope of the legal coherence of the offence committed to Latvia. Accordingly, Article 4 "Applicability of The Criminal Law Outside the Territory of Latvia" includes the following principles:

136. The principle of citizenship (including persons that are legally affined to Latvia) foresees that "Latvian citizens and non-citizens, and aliens or stateless persons who have a permanent residence permit for the Republic of Latvia, shall be held liable in accordance with this Law for a criminal offence committed in the territory of another state" (Article 4, Part 1 of the Criminal Law);

137. The applicability of the Criminal Law as regards Latvia's military personnel – the custody principle - states that "military personnel of the Republic of Latvia who are located outside the territory of Latvia shall be held liable for criminal offences in accordance with this Law, unless it is provided otherwise in international agreements binding upon the Republic of Latvia" (Article 4, Part 2 of the Criminal law).

138. Legal coherence to the Republic of Latvia as regards the object or aimed interests of the criminal offence committed involves two principles - the real and the territorial – "Aliens and stateless persons who do not have

permanent residence permits for the Republic of Latvia and who have committed especially serious crimes in the territory of another state which have been directed against the Republic of Latvia or against the interests of its inhabitants, shall be held criminally liable in accordance with this Law irrespective of the laws of the state in which the crime has been committed, if they have not been held criminally liable or committed to stand trial in accordance with the laws of the state where the crime was committed" (Article 4, Part 3 of the Criminal law).

139. According to Latvian jurisdiction, an especially serious crime is "an intentional offence for which this Law provides for deprivation of liberty for a term exceeding ten years, life imprisonment or the death penalty". Terrorism as a criminal offence is contained in the category of especially serious crimes.

140. The universal principle included in the Criminal Law results from international obligations binding upon the Republic of Latvia, and it foresees that "aliens or stateless persons who do not have a permanent residence permit for the Republic of Latvia and who have committed a criminal offence in the territory of another state, in the cases provided for in international agreements binding upon the Republic of Latvia, irrespective of the laws of the state in which the offence has been committed, shall be held liable in accordance with this Law if they have not been held criminally liable for such offence or committed to stand trial in the territory of another state" (Article 4, Part 4 of the Criminal law).

141. Thus, in the scope of this universal principle and the principle of citizenship, Latvia has the right to deal with criminal acts stated by the CTC in accordance with the legal norms mentioned above.

SUB – PARAGRAPH 2 (F):

Decides also that all States shall:

(f) afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

CTC question: Is the existence of a bilateral agreement or arrangement a pre – requisite of Latvia offering legal assistance to other countries as requested by this sub – paragraph?

142. No, the existence of a bilateral agreement or any other international legal arrangement is not an irreplaceable prerequisite for Latvia to offer legal assistance to other countries.

143. According to the legislation in force, there are no special statements or requests for a bilateral agreement on cooperation in the field of criminal investigation or any criminal proceeding to offer or assist another state in investigation or prosecution of any criminal offence. Bilateral agreements on legal assistance are auxiliary to fasten cooperation and completion of criminal procedures.

144. Nevertheless, in order to facilitate cooperation between countries Latvia has concluded several bilateral agreements on legal assistance and cooperation, including in the field of criminal matters, with the following states:

1. Agreement between the Republic of Latvia and the Republic of Belarus on Legal Assistance and Legal Relationships in Civil, Family and Criminal Matters (in force since 18/06/1995);

2. Agreement between the Republic of Latvia and the Kyrghyz Republic on Legal Assistance and Legal Relationships in Civil, Family and Criminal Matters (in force since 24/03/2001);
3. Agreement between the Republic of Latvia and the Republic of Moldova on Legal Assistance and Legal Relationships in Civil, Family and Criminal Matters (in force since 18/07/1996);
4. Agreement between the Republic of Latvia and the Republic of Poland on Legal Assistance and Legal Relationships in Civil, Family, Labour and Criminal Matters (in force since 05/09/1995);
5. Agreement between the Republic of Latvia and the Russian Federation on Legal Assistance and Legal Relationships in Civil, Family and Criminal Matters (in force since 28/03/1995);
6. Agreement between the Republic of Latvia and the Ukraine on Legal Assistance and Legal Relationships in Civil, Family and Criminal Matters (in force since 11/08/1996);
7. Treaty between the Government of the Republic of Latvia and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters (in force since 17/09/1999);
8. Agreement between the Government of the Republic of Latvia and the Government of the Republic of Uzbekistan on Legal Assistance and Legal Relationships in Civil, Family, Labour and Criminal Matters (in force since 12/05/1997).

145. Among the Baltic States the Agreement on Legal Assistance and on Legal Relations has also been concluded and has been in force since 3 April 1994. The agreements mentioned above set down the fundamental principles for legal cooperation and assistance.

146. Striving towards a profound and commodious framework in the field of international criminal cooperation, the Ministry of Justice elaborated the Amendments to the Code of the Criminal Procedure, which entered into force on 1 November 2002. Thus, the amendments state that criminal cooperation shall be regulated by international agreements, the Constitution of Latvia and the criminal procedural regulations stated in national legislation.

147. Accordingly, Article 595 of the amendments that the legal basis for procedural assistance to another country for the execution of procedural acts is the request by the foreign country for assistance and the decision of the competent state institution of Latvia on the admissibility of the execution of the procedural act.

148. Furthermore, the Ministry of Justice has elaborated a new Law on Criminal Procedure, which has been sent to other competent state institutions for their consideration. The new law sets out the modalities of international cooperation as regards criminal procedure, investigation, admissibility of evidence etc.

CTC question: What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings (especially those relating to the financing or support of terrorist acts) must be met and how long does it actually take in practice to implement such a request in Latvia?

149. There is no definite time-frame within which a request for judicial assistance in criminal investigations or criminal proceedings must be met. Therefore, the answer to the request for legal assistance in criminal matters is rendered depending on each particular case in the right-minded time-frame.

150. According to the new amendments in the Code of the Criminal Procedure, the Article 598 states that as regards requests to render assistance in criminal procedures, the decision shall be made immediately but no later than 10 days after the receipt of the request. In practice there could, however, be different reasons why

the answer to the request could be rendered in a longer time period, for example, the necessity of additional information, the absence or illness of a person etc.

SUB – PARAGRAPH 2 (G):

"Decides also that all States shall:
(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;"

CTC question: Please explain how the procedures for the issuance of identity papers and travel documents help prevent the counterfeiting, forgery or fraudulent use of those documents and what other measures exist to prevent their forgery etc.

151. The newest technologies and standards are being utilised for the issuance of passports and identity cards of the Republic of Latvia.

152. By decision of the Cabinet of Ministers on 14 December 1999 the identification document system was conceptually divided in compliance with international practice. Thus, there should exist a travel document to foreign countries and identification cards to individuals for domestic use.

153. New passports have been designed in compliance with the recommendations of the International Civil Aviation Organization (ICAO) given in 1999 and the recommendations of 17 October 2000 of the Council of the European Union as regards passport content and structure and document security.

154. Personalization of the new Latvian passports was started on 1 July of this year. Identification cards could be implemented as of the year 2004.

155. To prevent the forgery or fraudulent use of identity documents, Latvian legislation stipulates severe penalties. Thus, the Criminal Law states the following criminal liability:

156.1. Section 274 "Theft and Destruction of a Document, Seal or Stamp" states the following:

"(1) For a person who commits theft, concealment, intentional destruction of or damage to a document conferring rights or a release from obligations, a seal or a stamp, or commits using or selling the stolen document, seal or stamp, the applicable sentence is deprivation of liberty for a term not exceeding three years, or community service, or a fine not exceeding sixty times the minimum monthly wage.

(2) For a person who commits the same acts, if such have been committed for purposes of acquiring property, or have caused substantial harm to the State power or administrative order, or to rights and interests protected by law of a person, the applicable sentence is deprivation of liberty for a term not exceeding five years, or a fine not exceeding one hundred times the minimum monthly wage".

156.2. Section 275 "Forgery of a Document, Seal or Stamp and Use or Sale of a Forged Document, Seal or Stamp" states the following:

"(1) For a person who commits forgery of a document conferring rights or a release from obligations, or of a seal or a stamp, or commits using or selling a forged document, seal or stamp, the applicable sentence is deprivation of liberty for a term not exceeding two years, or by community service, or a fine not exceeding forty times the minimum monthly wage.

(2) For a person who commits the same acts, if commission thereof is repeated, or for the purpose of acquiring property, or by a group of persons pursuant to prior arrangement, or substantial harm is caused thereby to the State power or administrative order or to rights and interests protected by law of a person, the applicable sentence is deprivation of liberty for a term not exceeding four years, or a fine not exceeding sixty times the minimum monthly wage".

156.3. Article 281 "Concealing Personal Identity" states the following:

"(1) For a person who commits concealing personal identity, in the course of residing in the Republic of Latvia without an appropriate personal identification document or using the document of another person or a forged personal identification document, the applicable sentence is deprivation of liberty for a term not exceeding two years, or a fine not exceeding forty times the minimum monthly wage.

(2) For a person who commits the same acts, if such have been committed for purposes of avoiding criminal liability or of committing a criminal offence, the applicable sentence is deprivation of liberty for a term not exceeding five years".

156.4. Article 327 "Forging Official Documents" states the following:

"(1) For a person who commits forging documents, or issuing or using documents knowing they are forged, if commission thereof is by a State official, the applicable sentence is custodial arrest, or community service, or a fine not exceeding twenty times the minimum monthly wage.

(2) For a person who commits the same acts, if commission thereof is repeated or for purposes of acquiring property, the applicable sentence is deprivation of liberty for a term not exceeding two years, or a fine not exceeding forty times the minimum monthly wage".

SUB – PARAGRAPH 3 (D):

"3. Calls upon all States to:
(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;"

CTC question: The CTC would welcome a progress report, in relation to the twelve relevant international conventions and protocols relating to terrorism, on:

- becoming a party to the instruments to which Latvia is not yet a party, including the Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1998;

157. Latvia is delighted to inform the CTC that it has successfully completed the national ratification procedure for each convention mentioned in the Resolution 1373 of the United Nations Security Council:

1. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980 has been accepted by the Saeima on 19 September 2002; the Law on acception entered into force on 1 October 2002;
2. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979 was accepted by the Saeima on 26 September 2002;
3. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997 was accepted by the Saeima on 24 October 2002;
4. Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988 was accepted by the Saeima on 31 October 2002;
5. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988 was accepted by the Saeima on 31 October 2002.

158. As regards the Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on 24 February 1988, Latvia informs that the Protocol is effective and binding upon Latvia since 13 May 1997.

- Enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.

159. To be in line with the provisions of the aforementioned Conventions, the competent state institutions have included the necessary regulations in their Action Plans. As regards amendments to the Latvian legislation, please see Paragraphs 53 to 70.

SUB – PARAGRAPH 3 (E):

"Calls upon all States to:

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

Have the offences set forth in the relevant international conventions and protocols relating to terrorism been included as extraditable offences in the bilateral treaties to which Latvia is a party?

160. The general principles of extradiction are encompassed in the Code of Criminal Procedure of Latvia. Article 490 of the Code states the provisions when the extradiction of a person shall not be executed or allowed:

160.1. if the person is a citizen or the non-citizen of the Republic of Latvia;

160.2. if the request for extradiction of the person is associated with the intent to start criminal persecution or to punish the person due to the person's race, religious belief, nationality or political opinion, or there is a sufficient cause to regard that the person's rights could be infringed due to the causes mentioned above;

160.3. in respect of the person the court judgment has legally come into force in the Republic of Latvia about the criminal offence on which the request for extradiction has been submitted;

160.4. in accordance with national legislation, a person cannot be brought to criminal trial if the limitation period has become applicable or due to amnesty or other legal basis;

160.5. the person, in accordance with the Law, has been pardoned of the relevant criminal offence;

160.6. the foreign country cannot sufficiently guarantee that the person will not be accorded the death penalty, or that the death penalty shall not be executed;

160.7. the person could be tortured in the foreign country.

161. However, the Code of Criminal Procedure provides that the Republic of Latvia may refuse to extradict a person if the foreign country requests the extradiction due to political or military criminal offences (definitely excluding terrorism or like criminal offences). There are no clearly stated criminal offences in Latvian legislation on which extradiction may or may not be restricted and carried out.

SUB – PARAGRAPH 3 (G):

"3. Calls upon all States to:

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradiction of alleged terrorists;"

Does Latvian legislation ensure that claims of political motivation are not recognised as grounds for refusing requests for the extradiction of alleged terrorists in respect of all offences set forth in the relevant international conventions and protocols relating to terrorism?

162. Yes, according to the abovementioned the claim of political motivation is not recognized as grounds for refusing to extradict a person from the Republic of Latvia.

SUB – PARAGRAPH 4:

"4. Notes with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money – laundering, illegal arms – trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security."

Has Latvia addressed any of the concerns expressed in paragraph 4 of the Resolution?

163. The Latvian policy in combating international terrorism is closely related to the international efforts to fight terrorism in all its forms. The policy is closely connected with other efforts to eliminate international organized crime, drug trafficking and money laundering.

164. In addition, Latvia permanently participates in the Multidisciplinary Group on International Action against Terrorism (GMT) established by the Council of Europe.

165. The competent state institutions all along are guided by the Action Plan of the Government of the Republic of Latvia in particular areas: foreign policy; strengthening the co-operation among the state security establishments and their collaboration with similar establishments in other anti-terrorism coalition states; improving the circulation mechanism of relevant information among the abovementioned institutions; enhancement of domestic legislation; the control of migration; tightening the export, import and transit control of strategic goods; strengthening the administrative capacity of state institutions; strengthening of air travel security on aircraft and in airport through such measures as thorough control of hand luggage and all cargos; providing society with appropriate information and assurance of its readiness to deal with extreme situations such as terrorist acts, etc.

166. Latvia is completely committed to work together with international organisations and especially the United Nations, the Counter-Terrorism Committee and the member states of the Nations in fighting any form of terrorism.

OTHER MATTERS

Could Latvia please provide an organisational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as, contributing to compliance with the Resolution?

A. The Office of Citizenship and Migration Affairs

167. The Office of Citizenship and Migration Affairs is a supervisory body subordinate to the Ministry of the Interior of the Republic of Latvia, responsible for the issue of identity documents and travel documents, maintenance of the Population Register, implementation of state migration policy, including development and implementation of repatriation and asylum policy.

168. As a modern state governance authority it sets as its priority simple, foreseeable and understandable cooperation with the population, therefore the Office has started to ensure that the population receives services of the highest quality, as well as creating a double-check, convenient and safe system for identity documents, and development of a new residence registration system.

169. Pursuant to the laws and regulatory enactments in force in Latvia, the Office of Citizenship and Migration Affairs performs the following functions:

169.1. Maintenance of a Population Register, which involves:

1. the entry persons in the Population Register and verification of the information submitted by the persons to be registered;
2. gathering of information needed for the Population Register;
3. maintenance and improvement of an automated account-keeping system of the population;
4. furnishing of information to persons and administrative institutions in cases and procedures prescribed by regulatory enactments.

169.2. Issuance of identification and travel documents, which involves:

1. issuing persons identification and travel documents, keeping records of the mentioned documents, as well as developing and maintaining the relevant data bases;
2. within its competence regulating documents and controlling the entry and stay of foreign citizens and stateless persons in the Republic of Latvia;
3. submitting resolutions to the Board of Naturalization on persons who wish to obtain Latvia citizenship by way of naturalization.

169.3. Visa issuance for entry into the Republic of Latvia and the crossing of its territory, which involves:

1. ensuring the issuance of Republic of Latvia visas;
2. furthering development of Republic of Latvia regulatory enactments and their harmonization with the legislation of the European Union in the field of the visa regime and the entry of foreign citizens and stateless persons within its territory;
3. analysing statistical data and issues related to the visa regime.

169.4. Developing and implementing repatriation policy, which involves:

1. organizing repatriation work and administering the resources of the Repatriation Fund;
2. carrying out activities related to the integration of repatriates;
3. accepting repatriation documents, making decisions on issuing permits for entry into Latvia and granting repatriate status, as well as issuing documents confirming repatriate status.

169.5. Developing and implementing asylum policy, which involves:

1. examining cases according to established procedure and taking decisions on granting refugee status or its refusal;
2. issuing asylum seekers identification documents and refugee (personal) identification documents.

169.6. Developing and implementing migration policy, which involves:

1. participating in carrying out research work related to migration problems;
2. cooperating with international organizations, as well as migration services of other countries, organizing international meetings and conferences on migration issues and participating in their work;
3. analysing the experience of Latvia and other countries in solving migration issues.

B. The State Border Guard

170. The State Border Guard is an armed state administration institution under the authority of the Ministry of the Interior. Its main task is to protect and control the state boundary of the Latvian Republic.

171. The functions of the State Border Guard are the following:

1. Protection and control of the Latvian Republic boundary;
2. Control of persons crossing the boundary line and their travel documents;
3. Control of vehicles crossing the boundary line and their travelling documents;
4. Revealing and detainment of the wanted means of transportation;
5. Radiation control at the border crossing-points;
6. Revealing and detainment of illegal narcotic substances (drugs);
7. Control over the transportation of forbidden or limited objects (weapons, explosives, toxic and psychotropic substances) across the state boundary;
8. Control over permissions for transportation and use of radio-stations;
9. Epidemiological sanitary control of persons entering the country;
10. Control of observation of the borderland, boundary line and border-control regime;
11. Combat against contraband at the "green" border and border crossing-points;
12. Supervision of the port water area, inland and territorial waters, as well as control of the observation of the port border control-points regime, using water transportation vessels belonging to the service;
13. Performance of checks of obligatory land vehicle owners' civil liability insurance;
14. Control of license cards (permissions) for commercial transportation;
15. Fulfilment of custom duties at the "green" border and border crossing-points;
16. Consideration of the administrative breaches connected with crossing of the border.

172. State Border Guard are activite deep within the borderland, starting at the State boundary, and cooperate with other state security structures in territorial and inland waters.

173. State border guard activities at the border crossing points, stated by the law are:

1. To organize the work of border crossing points and the work of boundary checkpoints together with Custom Sanitary boundary inspection establishments, to coordinate the work of the control services, acting at the boundary checkpoints;
2. Together with Custom establishments to determine workplaces at boundary checkpoints for other institutions and private persons ensuring boundary-crossing control in other questions, stated by the law or providing services for persons crossing the State boundary.
3. To carry out border control and to permit passing the border for persons, vehicles, cargoes and other goods, if the documents, granting the rights to cross the border are correct and the entire borderline, custom and other state service operations have been completed.

4. Independently or together with custom institutions to prevent objects, disallowed for import to Latvia and transit traffic through the territory of Latvia, to be illegally transported over the state boundary. To prevent goods and other objects to be transported over the state boundary bypassing the custom control.
5. To maintain state boundary, borderland and boundary crossing points.
6. Independently or together with the international sea terminal, airport, marine passenger and railway terminal administration, in cooperation with custom institutions, police and structural subdivisions of National armed forces, as well as with corresponding self-government establishments to ensure and control observation.
7. To ensure prophylactics of violation of laws and other legislative acts regarding crossing the state boundary.
8. To investigate administrative infraction proceedings concerning violation of the state boundary, borderland, border checkpoints, and boundary-crossing points regime, and to impose administrative penalties.
9. The State Border Guard is an investigating institution in the proceedings concerning illegal crossing of the state boundary, and violation of the regime established for the borderland, border checkpoints, and boundary-crossing points.

C. State Revenue Service

174. The State Revenue Service of the Republic of Latvia is a state administration institution operating under the supervision of the Ministry of Finance. The State Revenue Service has been established with the task of implementing state fiscal and customs policies, to ensure the protection of the state economic border, and collection of the planned revenue to the State Budget. Achieving voluntary timely assessment and collection of taxes, duties and other compulsory payments, thereby contributing to the economic and social well-being of the Latvian population are a major objectives for the State Revenue Service today.

175. The main tasks of the State Revenue Service are:

1. to ensure collection of state taxes, duties and other compulsory payments, administered by the State Revenue Service on the territory of Latvia and on the customs border;
2. to implement state customs policy and ensure the protection of customs borders;
3. within the framework of its authority, to exercise control over the execution of Anti-corruption Law, as well as over the observance of additional restrictions on state officials set out by other laws;
4. to prevent and detect offences in the field of payment of state taxes, duties and other compulsory payments set out by the state;
5. to ensure training of employees from institutions subordinated to the State Revenue in tax legislation act application matters;
6. in accordance with the order established by laws and regulations of the Cabinet of Ministers to register and account taxpayers, and control conformity of registration documents to the requirements of the Law and actual situation;
7. to implement the state customs policy and ensure the protection of the customs border.

176. The implementation of the customs policy includes:

1. control of the observation of legislation acts in the customs area;
2. application of customs tariffs, observation of import and export permits system of the goods and other articles, collection of state taxes and duties;

3. cooperation with customs authorities of the other countries, to prevent smuggling and to stop import and export of goods prohibited by the international conventions;
4. performance of the international obligations in the field of customs;
5. construction and maintenance of the border.

D. Financial and Capital Market Commission

177. The goal of the Commission's activities is to protect the interests of investors, depositors and the insured, and to promote the development and stability of the financial and capital market.

178. The strategic goals of the Financial and Capital Market Commission are the following:

1. promotion of the stability in the financial and capital market;
2. promotion of the development of the financial and capital market;
3. protection of the interests of investors, depositors and the insured.

179. In order to pursue its goals, the Commission performs the following activities:

1. Issues regulations and orders governing the activity of the market participants;
2. Licenses participants of the financial and capital market as well as certain products, for instance, grants permits for the enlargement of share capital and for change of composition of shareholders etc.;
3. Controls compliance with its regulations and orders;
4. Collects, analyses and publishes information about the financial and capital market (quarterly report to the Bank of Latvia and the Ministry of Finance, annual report to the parliament, monthly statistics);
5. Prepares recommendations for the improvement of regulations and their harmonisation with the norms of EU legislation;
6. Carries out the assessment of risk on the level of an individual market participant, individual market sector as well as of the system as a whole;
7. Ensures the accumulation and management of guarantee funds for the protection of the investors, depositors and the insured. Makes respective compensation payments from these funds.
8. Cooperates with foreign financial and capital market supervisory organisations, international financial institutions (IMF, EBRD etc.), the Bank of Latvia, the Ministry of Finance of the Republic of Latvia.

Provides methodological assistance to the Office for the Prevention of Laundering of Proceeds Derived from Criminal Activity.

LIST OF LEGAL ACTS ATTACHED TO THE ANSWERS ON THE CTC QUESTIONS

1. **Law "On the Prevention of the Laundering of the Proceeds from Crime"**
2. **Law "On the Financial and Capital Market Commission"**
3. **Credit Institution Law**
4. **National Security Law**
5. **Asylum Law**
6. **Law "On the State Revenue Service"**
7. **Law "On the Police"**
8. **Law "On State Security Establishments"**
9. **Law "On the Constitutional Defense Bureau"**
10. **Regulations of the Cabinet of Ministers "On the List of Indicators Pertaining to Unusual Transactions and the Reporting Procedure"**
11. **Regulations of the Cabinet of Ministers "Procedures for Issuance of Republic of Latvia Visas"**
12. **Law "On Entry into and Residence in the Republic of Latvia of Aliens and Stateless Persons"**
13. **Investigatory Operations Law**